THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.13573 of 2007

Date:02.07.2007

Between:

G.Lakshma Reddy and another

.. PETITIONERS

AND

The A.P. Wakf Board and others

..RESPONDENTS

ORDER:

Petitioners assail the validity of a communication, dated 02.11.2004, to the Sub-Registrar, Choutuppal, the third respondent, from the District Collector, Nalgonda, the second respondent.

The petitioners state that they are the owners of various bits of land in different survey numbers of D.Nagaram Village of Choutuppal Mandal. It is stated that when the petitioners approached the third respondent, to obtain necessary information, the latter had made a reference to a communication, dated 02.11.2004, received by him from the second respondent and stated that the petitioners cannot transfer the lands mentioned in the A.P. Gazettee No.7A, dated 15.02.1990, and the corrigendum issued thereto. The petitioners submit that even when Section 22-A of the Registration Act, 1908 (for short 'the Act') was in force, the District Collector was not conferred with any power to prevent or prohibit alienations of any lands, and the communication that emanated from the second respondent cannot be sustained in law

when the very provision was set aside by this Court.

Heard the learned counsel for the petitioner, the learned standing counsel for the Wakf Board and the learned Government Pleader for Revenue.

The impugned communication reads as under:

> "I am to inform that an extent of Acs.423.39 guntas belongs to Mosque Alamsapet, situated at D.Nagaram Village of Choutuppal Mandal are published in A.P. Gazettee No.7-A, dated 15.02.1990, at Sl.No.14273 in Col.Nos.10, 11 and 12 an addendum and corrigendum Notification for new survey numbers is published in A.P. Gazette No.48 dated 27.11.2003. Xerox copy of the Gazette is enclosed herewith.
>
> I, therefore, request you not to register the service inam lands which Sy.No's addendum and corrigendum published in the A.P. Gazette No.48, dated 27.11.2003."

The second respondent did not refer to any provision under which he issued the communication. It was only the Government that was conferred with the power to prohibit registration of the identified lands by issuing a notification under Section 22-A of the Act. That provision was set aside by this Court following the judgment of the Supreme Court in ***State of Rajasthan V Basanth Nahata***[1]***.*** Recently, a new provision, with the same number, but different content was added through Act 19 of 2007. Unless a notification is issued under the amended Section 22-A of the Act, for the land in question, the registering authority cannot refuse registration.

Therefore, the writ petition is allowed and it is directed that

the third respondent shall receive and process the documents that may be presented by or on behalf of the petitioners, without reference to the impugned communication. It is, however, made clear that in case any notification is issued covering these very lands under Section 22-A (1)(e) of the Act, the same shall be taken note of by the third respondent. If there exist any other grounds, it shall be open to the third respondent to pass a reasoned order and communicate the same to the petitioners. There shall be no order as to costs.

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02.07.2007

kdl

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[1] AIR 2005 SC 3401